

REMARKS

Claims 1-28 were pending. Claims 23-28 were withdrawn by the examiner. Claims 1-22 were rejected. Claims 1-5, 7-12, 14-25, 27, and 28 have been amended. Reconsideration and allowance are respectfully requested.

Claim Objections

Claims 1-28 were objected to because the letter "c" preceded each claim number. The claims have been amended to remove this letter.

Claim Rejections - 35 U.S.C. §112

Claims 1-5 were rejected under U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The examiner states that the word "may" renders the claim indefinite because it is unclear whether the limitations following the word are part of the claimed invention.

This rejection is respectfully traversed. The word "may" in claim 1 does not indicate an optional step. Rather, the word "may" is part of what is communicated as part of a required step in this claim. In other words, the step of promoting the motion picture through a communication always takes place. The fact that part of the communication is to say that something "may" happen (that is, that the patron may or may not attend a showing) does not make it unclear as to whether the communication is part of the claimed invention. It is.

Claim Rejections – 35 U.S.C. §103

Claims 13-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,848,219 to Standard in view of U.S. Patent 5,524,195 to Clanton, in view of U.S. Patent 5,619,247 to Russo, and further in view of U.S. Patent 7,024,681 to Fransman. This rejection is respectfully traversed and reconsideration is requested.

Claim 13 is directed to a system for playing a motion picture at a theater to a plurality of patrons. The system requires a projector and a processing system. The processing system must be configured to cause the projector to begin projecting the motion picture a pre-determined time period after the first of the plurality of patrons arrives at the theater.

Claim 13 represents a marked shift from the traditional movie theater which requires patrons to arrive by one of several designated starting times. The traditional approach often causes stress, sometimes requires patrons to arrive early to get a seat (or a good seat), causes some patrons not to attend because the times are inconvenient, etc. It is also markedly different from video-on-demand systems which are not practical for theatres at which patrons inevitably arrive at different times.

The Examiner states that Standard discloses "a projector for projecting [a] motion picture in [a] theater" and that "the theater can be networked to a digital video distribution system." However, and as recognized by the Examiner, Standard does not disclose or suggest a key element in claim 13, namely "a processing system that is configured to cause the projector to begin projecting the motion picture a pre-determined time period after the first of the plurality of patrons arrives at the theater." The fact that motion pictures were known to be displayed in theaters using networked digital video plainly does constitute a disclosure or a suggestion of this feature. Standard concern is to enhance the realism of a motion picture and to make the patrons participants in the showing.

The Examiner next discusses Fransman. The Examiner states that Fransman discloses "a video server content manager that allows administrators to monitor and control the loading and unloading of content . . . so that the administrator can control the total capacity and the remaining capacity for providing content." However, this is a far cry from disclosing or suggesting a "processing system that is configured to cause the projector to begin projecting the motion picture a pre-determined time period after the first of the plurality of patrons arrives at the theater," as required by claim 13. An

"administrator" is not a processing system. Similarly, controlling "loading and unloading" and/ or "capacity" is not causing a "projector to begin projecting the motion picture a pre-determined time period after the first of the plurality of patrons arrives at the theater." Further, the capacity which is controlled is data storage capacity, again a feature wholly unrelated to this aspect of claim 13.

The Examiner next contends that it would have been obvious to have incorporated the teachings of Fransman into Standard. However, such a modification still falls far short of the invention of claim 13. For example, it still does not contain a key feature of claim 13, namely "a processing system that is configured to cause the projector to begin projecting the motion picture a pre-determined time period after the first of the plurality of patrons arrives at the theater."

The Examiner does not explain how Clanton or Russo are relevant to claim 13. To be sure, the Examiner does not contend that either Clanton or Russo discloses "a processing system that is configured to cause the projector to begin projecting the motion picture a pre-determined time period after the first of the plurality of patrons arrives at the theater."

The Examiner does not offer any reason as to why this tremendous difference between claim 13 and the applied references was merely an obvious difference, as required for a *prima facia* showing of obviousness. As stated in M.P.E.P. 2142 (emphasis added):

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness. . . .

* * * *

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82

USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

Indeed, the Examiner does not even contend that this vast difference was merely an obvious difference. Applicant therefore respectfully submits that claim 13 is not obvious in view of the stated combination of Standard and Fransman and that a *prima facie* showing of such obviousness has not in any event been established.

Claims 14-22 are dependent upon claim 13 and thus are also patentable in view of Standard and Fransman for the same reasons.

Claim 14 also requires the processing system to be configured to cause the projector to begin playing the motion picture "when a pre-determined level of patrons at the theater is reached, if earlier than the pre-determined time period after the first of the plurality of patrons arrives at the theater." The Examiner merely cites the same disclosure in Standard and Fransman which the Examiner cited against Claim 13. Whether alone or in combination, however, these teachings do not disclose this additional feature of claim 14. Again, moreover, the Examiner has not contended that this difference was merely an obvious difference, let alone explained why. Again, therefore, Applicant respectfully submits that this claim is not obvious in view of the described combination of Standard and Fransman and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 15 also requires the pre-determined level of patrons which triggers the playing of the movie to be a function of the time of day. The Examiner refers applicant to the discussion of claims 6 and 7. These discussions go over the aforementioned teaching of Standard and Fransman and also review Clanton and Russo. None of them,

however, teach this additional feature of claim 15 or the key feature of claim 13 (on which claim 15 depends) that is missing from Standard and Fransman, as discussed above, either alone or in combination.

Specifically, the Examiner states that "Clanton discloses . . . selecting and displaying videos on demand," "a poster wall that the user may navigate," and "a movie preview over the selection of a poster." However, this still falls woefully short of a processing system that is configured to cause the projector to begin projecting the motion picture a pre-determined time period after the first of the plurality of patrons arrives at the theater," as required by claim 13, the claim on which claim 15 depends. It also falls woefully short of the additional feature of claim 15, namely that the pre-determined level of patrons which triggers the playing of the movie be a function of the time of day. Clanton is a graphical user interface for selecting videos.

The Examiner states that "Russo . . . broadcasts the same program in several channels . . . offset by multiples of 10 or 15 minutes." Again, however, this is not at all the same as a processing system that is configured to cause the projector to begin projecting the motion picture "a pre-determined time period after the first of the plurality of patrons arrives at the theater," as required by claim 13. "Multiples of 10 or 15 minutes" is simply not at all the same as "a pre-determined time period after the first of the plurality of patrons arrives at the theater." It also is not the same as basing the pre-determined level of patrons which triggers the playing of the movie on the time of day, as required by claim 15. The delays in Russo are to compensate for capacity storage limits.

Again, the combination of these applied references fall woefully short of the invention of claim 15. Again, moreover, the Examiner has not contended that these differences were merely obvious differences, let alone explained why. Again, therefore, Applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 16 also requires the pre-determined time period which triggers the playing of the movie after the first patron arrives to be a function of the time of day. Again, none of the applied references disclose or suggest this feature, either alone or in combination. And again, the Examiner has not contended that this marked difference between the invention of this claim and the combined teaching of the applied references was merely an obvious difference, let alone offered reasons as to why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 17 also requires the pre-determined level of patrons which triggers the playing of the movie to be a function of the popularity of the motion picture. Again, none of the applied references disclose or suggest this feature, either alone or in combination. And again, the Examiner has not contended that this marked difference between the invention of this claim and the combined teaching of the applied references was merely an obvious difference, let alone offered reasons as to why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 18 also requires the pre-determined time period which triggers the playing of the movie after the first patron arrives to be a function of the popularity of the motion picture. Again, none of the applied references disclose or suggest this feature, either alone or in combination. And again, the Examiner has not contended that this marked difference between the invention of this claim and the combined teaching of the applied references was merely an obvious difference, let alone offered reasons as to why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 19 requires a complex of theaters and for the pre-determined level of patrons which triggers the playing of the movie to be a function of the number of theaters in the complex. Again, none of the applied references disclose or suggest this feature, either alone or in combination. The fact that Standard discloses that the theater may be in a complex of theaters falls woefully short of disclosing or suggesting that a pre-determined level of patrons which triggers the playing of the movie be a function of the number of theaters in the complex. And again, the Examiner has not contended that this marked difference between the invention of this claim and the combined teaching of the applied references was merely an obvious difference, let alone offered reasons as to why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 20 requires a complex of theaters and for the pre-determined time period which triggers the playing of the movie after the first patron arrives to be a function of the number of theaters in the complex. Again, none of the applied references disclose or suggest this feature, either alone or in combination. The fact that Standard discloses that the theater may be in a complex of theaters falls woefully short of disclosing or suggesting that a pre-determined time period which triggers the playing of the movie after the first patron arrives be a function of the number of theaters in the complex. And again, the Examiner has not contended that this marked difference between the invention of this claim and the combined teaching of the applied references was merely an obvious difference, let alone offered reasons as to why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 21 also requires an input system to be configured to receive and communicate information indicative of the arrival of at least the first of the plurality of patrons and the processing system to be configured to receive the information from the input system and to use the information in determining when to cause the projector to

begin projecting the motion picture. Again, none of the applied references disclose or suggest this feature, either alone or in combination. And again, the Examiner has not contended that this marked difference between the invention of this claim and the combined teaching of the applied references was merely obvious an difference, let alone offered reasons as to why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 22 also requires a timing system configured to determine when the predetermined time period which triggers the playing of the movie after the first patron arrives has elapsed. Again, none of the applied references disclose or suggest this feature, either alone or in combination. The fact that Fransman starts a movie at different times is not at all the same. And again, the Examiner has not contended that this marked difference between the invention of this claim and the combined teaching of the applied references was merely obvious an difference, let alone offered reasons as to why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claims 1-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,848,219 to Standard in view of U.S. Patent 5,524,195 to Clanton and further in view of U.S. Patent 5,619,247 to Russo. This rejection is respectfully traversed and reconsideration is requested.

Claim 1 is directed to a method similar to the system of claim 13. Claim 1 requires a motion picture to begin playing within no more than a pre-determined time period after a visiting patron arrives at the theater. Claim 1 also requires communicating to a prospective patron that: (a) the motion picture is not scheduled to begin at a theater at any particular time; (b) the prospective patron may visit the theater when convenient for the prospective patron; and (c) the motion picture will begin shortly after the prospective patron arrives at the theater.

Standard is alleged by the Examiner to only disclose the preamble of claim 1, but none of its steps. The fact that Clanton promotes videos on demand and that Russo plays the same movie every 10-15 minutes also falls woefully short of disclosing or suggesting the features of claim 1, either alone or in combination with Standard. The combined teachings, for example, still do not disclose "playing the motion picture within no more than a pre-determined time period after a visiting patron arrives at the theater." Indeed, none of these references, either alone or in combination, even track such a time period for any purpose.

Claims 2-4 are dependent upon claim 1 and thus are also patentable for the same reasons.

Claim 4 also requires communicating to the prospective patron that the motion picture will begin within no more than a stated time period after the prospective patron arrives at the theater. Again, none of the applied references disclose or suggest such a communication, either alone or in combination. The fact that Russo discloses that a movie may be played on a schedule is not the same as communicating that the move will begin a stated time period "after the prospective patron arrives at the theater," as required by this claim. And again, the Examiner has not contended that this marked difference between the invention of this claim and the combined teachings of the applied references was merely an obvious difference, let alone offered reasons as to why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claims 5-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,848,219 to Standard in view of U.S. Patent 5,524,195 to Clanton and further in view of U.S. Patent 5,619,247 to Russo. This rejection is respectfully traversed and reconsideration is requested.

Claim 5 is dependent upon claim 1 and thus is also patentable for the same reasons as discussed above in connection with claim 1.

Claim 6 is similar to claim 1 but requires the movie to begin at the earlier of "a pre-determined time period after the first patron arrives at the theater" or "when a pre-determined level of the patrons at the theater has been reached." As explained above in connection with the discussion of claim 1, none of the applied reference begin playing a movie "a pre-determined time period after the first patron arrives at the theater." Similarly, none of them begin playing a movie "when a pre-determined level of the patrons at the theater has been reached." Plainly, therefore, none of them begin playing a movie at the earlier of these times. Again, the features of this claim are nowhere disclosed in the applied references, either alone or in combination, nor has the Examiner contended that these difference were merely obvious differences, let alone explained why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claims 7-12 are dependent upon claim 6 and thus are also patentable for the same reasons.

Claim 7 also requires the pre-determined level of the arriving patrons which triggers the playing of the movie to be a function of the time of day. As explained above in connection with claim 15, this feature is also not disclosed by the applied references, either alone or in combination. Nor has the Examiner contended that this difference was merely an obvious difference, let alone explained why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 8 also requires the pre-determined time period which triggers the playing of the movie after the first patron arrives to be a function of the time of day. This feature is also not disclosed by the applied references, either alone or in combination. Nor has the Examiner contended that this difference was merely an obvious difference, let alone explained why. Again, therefore, applicant respectfully submits that this claim is not

obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 9 also requires the pre-determined level of the arriving patrons which triggers the playing of the movie to be a function of the popularity of the motion picture. This feature is also not disclosed by the applied references, either alone or in combination. Nor has the Examiner contended that this difference was merely an obvious difference, let alone explained why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 10 also requires the pre-determined time period which triggers the playing of the movie after the first patron arrives to be a function of the popularity of the motion picture. This feature is also not disclosed by the applied references, either alone or in combination. Nor has the Examiner contended that this difference was merely an obvious difference, let alone explained why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 11 also requires a complex of theaters and for the pre-determined level of the arriving patrons which triggers the playing of the movie to be a function of the number of theaters in the complex. Again, none of the applied references disclose or suggest this feature, either alone or in combination. The fact that Standard discloses that the theater may be in a complex of theaters falls woefully short of disclosing or suggesting that the pre-determined level of the arriving patrons which triggers the playing of the movie be a function of the number of theaters in the complex. (Standard's concern is to enhance the realism of a motion picture and to make the patrons participants in the showing.) Nor has the Examiner contended that this difference was merely an obvious difference, let alone explained why. Again, therefore, applicant

respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

Claim 12 also requires an input system to be configured to receive and communicate information indicative of the arrival of at least the first of the plurality of patrons and the processing system to be configured to receive the information from the input system and to use the information in determining when to cause the projector to begin projecting the motion picture. This feature is also not disclosed by the applied references, either alone or in combination. Nor has the Examiner contended that this difference was merely an obvious difference, let alone explained why. Again, therefore, applicant respectfully submits that this claim is not obvious in view of the combination of applied references and that a *prima facie* showing of such obviousness has not in any event been established.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance and early notice of the same is earnestly requested. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 501946 and please credit any excess fees to such deposit account.

Respectfully submitted,
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